

AUG 22 2003

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

MOHINDER CHALGE,

Petitioner,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 02-71326

INS No. A70-953-469

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted August 7, 2003**
Pasadena, California

Before: **KOZINSKI, T.G. NELSON**, Circuit Judges, and **RESTANI**,** Judge.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

** The Honorable Jane A. Restani, United States Court of International Trade, sitting by designation.

A motion to reopen must be supported by “new facts that will be proven at a hearing . . . and shall be supported by affidavits and other evidentiary material.” 8 U.S.C. § 1229a(c)(6)(B). A motion “will not be granted unless the Immigration Judge is satisfied that evidence sought to be offered is material and was not available and could not have been discovered or presented at the former hearing.” 8 C.F.R. § 1003.23(b)(3). The Immigration Judge has discretion to deny a motion to reopen even if the moving party has established a prima facie case for relief. *Id.* We review the IJ’s ruling only for abuse of discretion. Monjaraz-Munoz v. INS, 327 F.3d 892, 895 (9th Cir. 2003).

Chalge supported his motion to reopen with only his own affidavit. The IJ denied the motion after she found that Chalge had not adequately supported it with new facts. We cannot say that the IJ abused her discretion.

DENIED.